

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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J.P. and M.K., individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

**ORDER**

Civil File No. 18-3472 (MJD/DTS)

BCBSM, Inc. d/b/a Blue Cross and  
Blue Shield of Minnesota,

Defendant.

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Charles N. Nauen, Susan E. Ellingstad, David W. Asp, and Jennifer L. M. Jacobs,  
Lockridge Grindal Nauen P.L.L.P., and Jordan Lewis, Jordan Lewis, P.A.,  
Counsel for Plaintiffs.

Joel Allan Mintzer and Doreen A. Mohs, Blue Cross and Blue Shield of  
Minnesota, and David M. Wilk, Larson King, LLP, Counsel for Defendant.

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The above-entitled matter comes before the Court upon the Report and  
Recommendation of United States Magistrate Judge David T. Schultz dated  
February 24, 2020. Defendant filed objections to the Report and  
Recommendation.

Pursuant to statute, the Court has conducted a de novo review upon the  
record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the

Court adopts the Report and Recommendation of United States Magistrate Judge Schultz dated February 24, 2020. The Court emphasizes, as noted in the Report and Recommendation, that the motion before the Court is one for dismissal under Federal Rule of Civil Procedure 12(b)(6), not a motion for summary judgment.

Accordingly, based upon the files, records, and proceedings herein, **IT IS**  
**HEREBY ORDERED:**

1. The Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge David T. Schultz dated February 24, 2020 [Docket No. 41].
2. Defendant's Motion to Dismiss [Docket No. 20] is **DENIED**.
3. Defendant's Motion to Dismiss [Docket No. 11] is **DENIED AS MOOT**.

Dated: March 24, 2020

s/ Michael J. Davis

Michael J. Davis

United States District Court